INDEX

	Page
Motion by the United States for entry of a supplemental decree (No. 1)	1
Proposed supplemental decree	3
Memorandum in support of motion for supplemental decree (No. 1)	12
I. Background	12
II. Portion of the disputed area to be awarded to the United States	16
III. Portions of the disputed area to be awarded to the State of Louisiana	18
IV. Explanatory comment	19
Conclusion	26

CITATIONS

Cases:	
United States v. *California*, 381 U.S. 139	18, 19
United States v. *Louisiana*, 339 U.S. 699	12
United States v. *Louisiana*, 340 U.S. 899	12
United States v. *Louisiana*, 351 U.S. 978	14
United States v. *Louisiana*, 363 U.S. 1	13, 15
United States v. *Louisiana*, 364 U.S. 502	15
Treaty and statutes:	
Convention on the Territorial Sea and the Contiguous Zone	19
Submerged Lands Act, 67 Stat. 29, 43 U.S.C. 1301–1315	12
Sec. 2(c), 43 U.S.C. 1301(c)	17
Sec. 4, 43 U.S.C. 1312	17
Sec. 5, 43 U.S.C. 1313	15
Louisiana Act 55 of 1938	12
Louisiana Act 33 of 1954	13, 25
Sec. 1	16
Louisiana Act 311 of 1964, Sec. 2	25
Miscellaneous:	
43 C.F.R. 3380.2(b)	20
43 C.F.R. 3382.1	23
2 Shalowitz, *Shore and Sea Boundaries* (1964), 40–42	18

In the Supreme Court of the United States

OCTOBER TERM, 1965

No. 9, ORIGINAL

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF LOUISIANA ET AL.

MOTION BY THE UNITED STATES FOR ENTRY OF A SUPPLEMENTAL DECREE (No. 1) [1]

The United States of America, by the Solicitor General, moves the Court for entry of a supplemental decree, in the form submitted herewith, declaring the rights of the respective parties in certain specific portions of the total area embraced in this litigation, and in moneys derived from or on account of those portions.

This motion is made on the following grounds:

1. There is no longer any basis for controversy as to those portions of the disputed area to which this motion relates.

[1] Concurrently with, or soon after, the filing of this motion, the United States intends to move the Court for entry of another supplemental decree adjudicating the rights of the parties in the remainder of the litigated area, as to which there is still a substantial controversy. To differentiate the two motions, they are designated "No. 1" and "No. 2."

2. Such portions are now being administered under the Interim Agreement of October 12, 1956, and most of the proceeds therefrom, amounting to very large sums, are being held impounded, chiefly by the United States, pursuant to that agreement. It is to the interest of both parties to establish the exclusive rights of each in the portions where the other no longer has ground for any claim, and to release immediately to each the amounts heretofore derived from such portions.

3. Since this can be done without requiring the Court to consider any issue not resolved by the Court's decree entered December 12, 1960, settlement of the rights of the parties as to these portions of the area originally in dispute need not await determination of the controversy as to the remainder, which involves serious issues.

4. The supplemental decree now sought is necessary or advisable to give proper force and effect to this Court's decree of December 12, 1960, and is within the jurisdiction retained by the Court by paragraph 8 thereof.

Respectfully,

THURGOOD MARSHALL,
Solicitor General.

NOVEMBER 1965.

In the Supreme Court of the United States

OCTOBER TERM, 1965

No. 9, ORIGINAL

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF LOUISIANA ET AL.

PROPOSED SUPPLEMENTAL DECREE

For the purpose of giving effect to the conclusions of this Court as stated in its opinion, announced May 31, 1960, and the decree entered by this Court on December 12, 1960, it is ordered, adjudged and decreed as follows:

1. As against the defendant State of Louisiana, the United States is entitled to all the lands, minerals and other natural resources underlying the Gulf of Mexico, south of grid line y=499,394.40 on the Louisiana Plane Coordinate System, South Zone, that are more than three geographical miles seaward from a line described as follows (coordinates refer to the Louisiana Plane Coordinate System, South Zone):

> Beginning at the point where grid line y= 499,394.40 intersects the line of mean low water on the eastern side of Chandeleur Island, thence southerly along the line of mean low water on the eastern side of the Chandeleur Islands, and by straight lines across channels between the

islands, to the southwesternmost extremity of Errol Shoal, at latitude 29°35′48″ N., longitude 89°00′48″ W. (x=2,737,287.96, y=345,654.41); thence to Pass a Loutre lighted whistle buoy 4, at latitude 29°09′55.9″ N., longitude 88°56′54.4″ W. (x=2,761,169.19, y=189,334.14); thence to South Pass lighted whistle buoy 2, at latitude 28°58′44.9″ N., longitude 89°06′36.9″ W. (x=2,710,848.37, y=120,529.25); thence to Southwest Pass entrance mid-channel lighted whistle buoy, at latitude 28°52′37.1″ N., longitude 89°25′57.1″ W. (x=2,608,424.04), y=81,526.86); thence to Ship Shoal lighthouse at latitude 28°54′51.512″ N., longitude 91°04′15.985″ W. (x=2,083,908.09, y=90,154.12); thence to Calcasieu Pass lighted whistle buoy 1, at latitude 29°36′21.7″ N., longitude 93°19′07.6″ W. (x=1,369,080.08, y=347,060.52); thence to Sabine Pass lighted whistle buoy 1, at latitude 29°36′16″ N., longitude 93°48′31.2″ W. (x=1,213,416.18, y=349,514.72).

2. The State of Louisiana is not entitled to any interest in the lands, minerals or resources described in paragraph 1 hereof, and said State, its privies, assigns, lessees and other persons claiming under it are hereby enjoined from interfering with the rights of the United States in such lands, minerals and resources.

3. With the exceptions provided by § 5 of the Submerged Lands Act, 43 U.S.C. § 1313, the State of Louisiana is entitled, as against the United States, to all the lands, minerals and other natural resources in the portions of the disputed area described in this paragraph. These portions of the disputed area are

bounded on the landward side by the seaward boundary of Zone 1, as delineated on Exhibit A to the parties' Interim Agreement of October 12, 1956, as amended, on file with the Court. They are bounded on the seaward side by lines three geographical miles seaward from baselines as herein described, consisting of (1) segments of, or salient points on, the line of mean low water on the mainland, on naturally formed islands, or on naturally formed low-tide elevations situated wholly or partly within three geographical miles from the low-water line on the mainland or on such islands, and (2) straight lines across designated openings in the low-water line. As used herein, "salient point" means any point on the low-water line, so situated that there is some area within three geographical miles seaward from such point that is more than three geographical miles from all other points on the baseline. These baselines are ambulatory and subject to continual modification by natural or artificial changes in the shore line to the extent the law may provide, but for purposes of present identification and practical administration until notice by either party to the other they are described herein by their coordinates in the Louisiana Plane Coordinate System, South Zone, as shown by Exhibits 1 to 4, inclusive, filed with the Motion of the United States herein. Each three-mile line is to be drawn in such manner that every point on the three-mile line is exactly three geographical miles from the nearest point or points on the baseline, continuing in each direction until it meets another specified boundary of the particular portion of the dis-

puted area. The portions of the disputed area referred to herein are as follows:

(a) In the vicinity of Calcasieu Pass, all that portion of the disputed area bounded on the landward side by the seaward boundary of Zone 1, and bounded on the seaward side by a line three geographical miles seaward from the tip of the western jetty, at x=1,362,416, y=397,822; from the tip of the eastern jetty, at x=1,363,392, y=397,870; and from a straight line between said points.

(b) In the vicinity of Marsh Island and Atchafalaya Bay, all that portion of the disputed area bounded on the landward side by the seaward boundary of Zone 1, and bounded on the seaward side by a line three geographical miles seaward from salient points on islands and low-tide elevations at x=1,778,769, y=324,757; x=1,782,391, y=321,876; x=1,783,067, y=321,331; x=1,791,584, y=307,545; x=1,809,845, y=296,285; x=1,820,994, y=291,804; x=1,833,527, y=271,423; x=1,834,019, y=270,301; x=1,835,344, y=270,839; x=1,843,467, y=275,912; x=1,844,320, y=278,858; x=1,875,200, y=285,729; and x=1,877,582, y=283,274; three geographical miles seaward from a straight line between South Point, Marsh Island, at x=1,863,474, y=298,772, and Point Au Fer, at x=1,993,420, y=241,930; and three geographical miles seaward from a salient point on a low-tide elevation at x=1,987,371, y=241,272.

(c) In East Bay, all that portion of the disputed area bounded on the landward side by the seaward boundary of Zone 1, and bounded on the seaward side by a line three geographical

miles seaward from salient points on the mean low-water line at x=2,639,545, y=126,825; x=2,641,835, y=129,725; and x=2,644,940, y=134,910, and from the line of mean low water which may be considered to consist of straight lines between said points; three geographical miles seaward from a salient point on a low-tide elevation at x=2,672,315, y=141,745; three geographical miles seaward from the line of mean low-water which may be considered to consist of straight lines between the points x=2,673,482, y=141,245; x=2,678,500, y=139,250; and x=2,682,605, y=136,895; and three geographical miles seaward from a salient point on the mean low-water line at x=2,685,325, y=133,800.

(d) Between Pass a Loutre and Breton Island, all that portion of the disputed area west of grid line x=2,740,710, bounded on the landward side by the seaward boundary of Zone 1, and bounded on the seaward side by a line three geographical miles seaward from salient points on the mainland, on islands, or on low-tide elevations at x=2,738,320, y=210,230; x=2,737,065, y=210,155; x=2,727,090, y=209,195; x=2,709,100, y=220,995; x=2,708,835, y=221,440; x=2,707,635, y=223,640; x=2,701,500, y=232,820; x=2,700,735, y=234,640; x=2,689,305, y=250,395; and x=2,688,235, y=252,215; and three geographical miles seaward from a straight line between the eastern headland of Main Pass, at x=2,681,915, y=257,755, and the southern extremity of Breton Island, at x=2,678,009, y=294,303.

4. The United States is not entitled, as against the State of Louisiana, to any interest in the lands, min-

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erals or resources described in paragraph 3 hereof, with the exceptions provided by § 5 of the Submerged Lands Act, 43 U.S.C. § 1313.

5. All sums now held impounded by the United States under the Interim Agreement of October 12, 1956, as amended, derived from or attributable to the lands, minerals or resources described in paragraph 1 hereof are hereby released to the United States absolutely, and the United States is hereby relieved of any obligation under said agreement to impound any sums hereafter received by it, derived from or attributable to said lands, minerals, or resources.

6. All sums now held impounded by the State of Louisiana under the Interim Agreement of October 12, 1956, as amended, derived from or attributable to the lands, minerals or resources described in paragraph 3 hereof are hereby released to the State of Louisiana absolutely, and the State of Louisiana is hereby relieved of any obligation under said agreement to impound any sums hereafter received by it, derived from or attributable to said lands, minerals or resources.

7. Within 75 days after the entry of this decree—

(a) The State of Louisiana shall pay to the United States or other persons entitled thereto under the Interim Agreement of October 12, 1956, as amended, all sums, if any, now held impounded by the State of Louisiana under said agreement, derived from or attributable to the lands, minerals or resources described in paragraph 1 hereof;

(b) The State of Louisiana shall render to the United States and file with the Court a true,

full, accurate and appropriate account of any and all other sums of money derived by the State of Louisiana since June 5, 1950, either by sale, leasing, licensing, exploitation or otherwise from or on account of any of the lands, minerals or resources described in paragraph 1 hereof;

(c) The United States shall pay to the State of Louisiana or other persons entitled thereto under the Interim Agreement, as amended, all sums, if any, now held impounded by the United States under said agreement, derived from or attributable to the lands, minerals or resources described in paragraph 3 hereof;

(d) The United States shall render to the State of Louisiana and file with the Court a true, full, accurate and appropriate account of any and all other sums of money derived by the United States either by sale, leasing, licensing, exploitation or otherwise from or on account of the lands, minerals or resources described in paragraph 3 hereof.

8. Within 60 days after receiving the account provided for by paragraph 7(b) or 7(d) hereof, a party may serve on the other and file with the Court its objections thereto. Thereafter either party may file such motion or motions at such time as may be appropriate to have the account settled in conjunction with the issues concerning the areas still in dispute. If neither party files such an objection within 60 days, then each party shall forthwith pay to any third person any amount shown by such accounts to be payable by it to such person, and the party whose obligation to the other party is shown by such accounts to be the

greater shall forthwith pay to the other party the net balance so shown to be due. If objections are filed but any undisputed net balance is shown which will be due from one party to the other party or to any third person regardless of what may be the ultimate ruling on the objections, the party so shown to be under any such obligation shall forthwith pay each such undisputed balance to the other party or other person so shown to be entitled thereto. The payments directed by paragraph 7(a) and 7(c) hereof shall be made irrespective of the accounting provided for by paragraph 7(b) and 7(d).

9. Until further order of the Court or agreement of the parties filed with the Court, both parties shall continue to recognize as a single lease for all purposes any existing lease now being administered under the Interim Agreement of October 12, 1956, as amended, that covers lands, minerals, or resources part of which are described in paragraph 1 or paragraph 3 hereof and part of which remain in dispute (including any existing leasehold partly in Zone 1 and partly within the area confirmed to the United States by this decree); but the party hereby awarded part of the lands, minerals, or resources covered by any such lease shall hereafter administer the lease as to such lands, minerals, or resources as sole lessor, shall be entitled to receive from the lessee all payments hereafter due under said lease to the extent that they are derived from or attributable to such part of the lands, minerals, or resources covered by the lease, and shall be under no duty to account for or impound any payments so received. Either party, for its own con-

venience, may nevertheless impound any or all of such moneys if it wishes to do so, or may terminate such impoundment in whole or in part at any time, without further order of the Court or agreement of the other party. In all other respects each such lease (including any existing leasehold partly in Zone 1 and partly within the area confirmed to the United States by this decree) shall continue to be administered as at present.

10. Nothing in this supplemental decree or the proceedings leading to it shall prejudice any rights, claims or defenses of the United States or of the State of Louisiana with respect to the remainder of the disputed area or past or future payments derived therefrom or attributable thereto or the operation of the Interim Agreement of October 12, 1956, as amended, with respect to such area and payments.

11. The Court retains jurisdiction to entertain such further proceedings, enter such orders and issue such writs as may from time to time be deemed necessary or advisable to give proper force and effect to the decree of December 12, 1960, herein, or to this decree, including, if necessary, further adjustments of the accounting between the parties with respect to the lands, minerals and resources described in paragraph 1 and paragraph 3 of this decree.

In the Supreme Court of the United States

OCTOBER TERM, 1965

No. 9, ORIGINAL

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF LOUISIANA ET AL.

MEMORANDUM IN SUPPORT OF MOTION FOR SUPPLEMENTAL DECREE (No. 1)

I

BACKGROUND

In 1950 this Court held that the United States, rather than the State of Louisiana, was entitled to the submerged lands and resources of the Gulf of Mexico extending 27 geographical miles [1] seaward from the low-water mark and from the outer limit of inland waters on the coast of Louisiana. It required the State of Louisiana to account for all sums derived by it from that area after June 5, 1950. *United States* v. *Louisiana,* 339 U.S. 699, 340 U.S. 899.

By the Submerged Lands Act of May 22, 1953, the United States released to Louisiana, with certain exceptions, the submerged lands and resources (includ-

[1] Twenty-seven miles was the extent of Louisiana's claim at that time. Louisiana Act 55 of 1938.

ing past proceeds thereof) within the State's boundary, limited however to a distance of three geographical miles seaward from the coast line, or three leagues (nine geographical miles) if such a boundary had previously been approved by Congress or existed when Louisiana became a member of the Union. "Coast line" was defined as the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters. 67 Stat. 29, 43 U.S.C. 1301–1315.

The present action was brought by the United States in 1955 to establish its right, as against the State of Louisiana, to the submerged lands and resources more than three geographical miles from the coast line, on the ground that no boundary more than three miles from the coast line had ever been approved for Louisiana by Congress or had existed when Louisiana became a member of the Union. Complaint, pp. 3–6; Amended Complaint, pp. 3–5. By its answer, Louisiana asserted a right to the submerged lands and resources within its boundary as defined by Louisiana Act 33 of 1954—a line three leagues seaward from the "coast line," defined in turn as the line that was established in 1953 by the Commandant of the Coast Guard to delimit the waters in which vessels should observe the inland rules of navigation. Answer of the State of Louisiana, pp. 17–21; Answer of the State of Louisiana to the Amended Complaint, p. 12.[2] Except along

[2] Other claims and defenses asserted by Louisiana, including some not based on the coast line, have been rejected by the Court and have no present materiality. 363 U.S. 1, 62–75.

the Chandeleur Islands, the Coast Guard line lies seaward of the coast line contended for by the United States.

Because of conflicting attempts by the parties to administer the disputed area while the suit was pending, the Court on June 11, 1956, enjoined new leasing or drilling in the disputed area by either party except pursuant to an agreement filed with the Court. 351 U.S. 978. On October 12, 1956, the parties executed and filed such an interim agreement (subsequently amended in various details). That agreement divides the disputed area into four zones, beginning at the "Chapman Line," a line described by certain federal officials about 1950 as constituting the coast line. Zone 1 is the area within three geographical miles seaward from the Chapman Line; Zone 2 is the next six geographical miles seaward; Zone 3 extends thence to Louisiana's claimed "Act 33" boundary, three leagues seaward from the Coast Guard line; Zone 4 is everything farther seaward. Without prejudice to either party's ultimate claims, the Interim Agreement provides, in general, that Zone 1 is to be administered by Louisiana and Zone 4 by the United States, without restriction. Leasing in Zones 2 and 3 is conducted by the United States, with limited participation by Louisiana, except for certain leases previously issued by Louisiana. Each party holds impounded its receipts from Zones 2 and 3 (with minor exceptions), to be released to the prevailing party (or, in certain circumstances, to be returned by the losing party to the lessee) upon determination of the title to the area from which they were derived.

On May 31, 1960, this Court held that Louisiana's boundary, within the meaning of the Submerged Lands Act, is three geographical miles from the coast line. The Court quieted the State's title to the submerged lands and resources within that distance (subject to the exceptions provided in section 5 of the Submerged Lands Act, 43 U.S.C. 1313), quieted the title of the United States to the submerged lands and resources seaward thereof, and directed the State to account for its receipts from the federal area since June 5, 1950. The Court retained jurisdiction to entertain further proceedings necessary or advisable to give force and effect to the decree. 363 U.S. 1; decree, 364 U.S. 502.

As appears from this summary, the only aspect of the case litigated thus far has been the width of Louisiana's maritime belt—an issue that has now been resolved by the Court in favor of the three-mile limit. Before the Court's decision can be made effective by actual identification of the respective state and federal areas, it is necessary to resolve a second issue: the location of the "coast line" from which the three miles should be measured. The United States expects soon to move the Court for entry of a supplemental decree answering that question. Louisiana will raise several legal and perhaps factual issues affecting most of the disputed area, the presentation and determination of which will undoubtedly require substantial time. In the meantime, it appears that various circumstances have operated to eliminate all serious grounds for controversy as to certain parts of Zones 2 and 3 that have produced and are producing very

substantial revenues. It is to the interest of each party that title to those parts be adjudicated immediately and that they and the revenues derived therefrom be released from the restrictions of the Interim Agreement. The present motion seeks such adjudication and release, without prejudice to the remaining issues.

II

PORTION OF THE DISPUTED AREA TO BE AWARDED TO THE UNITED STATES

First, the present motion seeks to settle the right of the United States to the portion of the disputed area more than three miles seaward from the outermost line claimed by Louisiana or recognized by the United States as constituting the "coast line" within the meaning of the Submerged Lands Act. Louisiana can no longer seriously claim anything farther seaward, in view of this Court's decree of December 12, 1960, limiting Louisiana to three miles from the coast line. The effect of the proposed decree is simply to apply the general principle established by the decree to a specific part of the contested area as to which there is no room for further factual or legal dispute.

The most seaward line now claimed by Louisiana as the coast line is the Coast Guard line, as incorporated in section 1 of Louisiana Act 33 of 1954:

> The coast or coast line of the State of Louisiana is accepted and approved as designated and defined in accordance with applicable Acts of Congress, as follows: From Ship Island Lighthouse to Chandeleuer Lighthouse; thence in a curved line following the general trend of

> the seaward, high-water shore lines of the Chandeleuer Islands to the Southwesternmost extremity of Errol Shoal; thence to Pass-a-Loutre lighted whistle buoy 4 to South Pass lighted whistle buoy 2; thence to Southwest Pass entrance mid-channel lighted whistle buoy; thence to Ship Shoal lighthouse; thence to Calcasieu Pass lighted whistle buoy 1; thence to Sabine Pass lighted whistle buoy 1 * * *.

From Errol Shoal to Sabine Pass, the Coast Guard line lies seaward of any other line ever claimed to be the coast line. Consequently, under the prior decision in this case Louisiana has no basis for continuing to assert title to any part of the disputed area more than three geographical miles seaward from that portion of the Coast Guard line. We believe that Louisiana will concede that there is nothing further it can present.

Along the Chandeleur Islands, from Errol Shoal northward, the Coast Guard line follows the line of mean *high* water. However, section 2(c) of the Submerged Lands Act, 43 U.S.C. 1301(c), recognizes as the coast line the line of mean *low* water, which of course is slightly farther seaward. To the extent that Louisiana's claim of three leagues from the high-water line lies within a distance of three miles from the low-water line, it was approved by section 4 of the Submerged Lands Act, 43 U.S.C. 1312. Consequently, we do not claim the submerged lands within three miles from the line of mean low water, even though Louisiana's boundary claim has been couched in different terms.

From the north end of Chandeleur Island to Ship Island, the crossing presents several problems, so that

one cannot specify any particular line as constituting, along its entire length, the most seaward line claimed or recognized by either party as the outer limit of inland waters. To avoid dealing with those problems at this time, we limit the present motion to the portion of the disputed area south of grid line y=499,394.40 on the Louisiana Plane Coordinate System, South Zone,[3] deferring consideration of the portion farther north to the time when the other contested issues are presented for adjudication.

III

PORTIONS OF THE DISPUTED AREA TO BE AWARDED TO THE STATE OF LOUISIANA

Second, the present motion seeks to settle the right of the State of Louisiana to certain parts of Zone 2 which were in dispute but which the United States, because of supervening developments, must now recognize as within three miles of the coast line, within the meaning of the Submerged Lands Act.

At Calcasieu Pass, where the Chapman Line followed the natural shore line, we now extend the coast line to include the jetties, in accordance with this Court's holding in *United States* v. *California*, 381 U.S. 139, 176–177. South of Marsh Island, south of the entrance to Atchafalaya Bay, and in the region between Pass a Loutre and Breton Island, where the

[3] For a brief explanation of the State plane coordinate systems, see 2 Shalowitz, *Shore and Sea Boundaries* (1964) 40–42. Use of this system is particularly appropriate here, not only because of its relative convenience and extreme accuracy but also because all offshore leases are described by reference to it.

Chapman Line followed the mainland shore, we now extend the coast line to include numerous small islets and low-tide elevations, in accordance with the provisions of the Convention on the Territorial Sea and the Contiguous Zone. At Atchafalaya Bay, where the Chapman Line followed a closing line based on a maximum permissible entrance width of 10 miles, we now recognize a more extended line based on a 24-mile limit, as required by this Court's decision in *United States* v. *California,* 381 U.S. 139, 163–167. In East Bay and between Pass a Loutre and Breton Island, as a result of more detailed subsequent surveys, we now recognize a coast line farther seaward than the Chapman Line.

IV

EXPLANATORY COMMENT

All of the portions of the disputed area affected by this motion are described in detail in our proposed supplemental decree, and are shown on a series of maps, designated Exhibits 1 through 15, filed with the Court in connection with the present motion.

Exhibits 1 through 5 depict locations that are described by reference to the shore line. They are large scale (1:20,000) maps based on the detailed surveys made in 1956–1961, mentioned above. Points referred to in the proposed decree or shown on these maps are identified by coordinates in the Louisiana Plane Coordinate System, South Zone. However, we emphasize that insofar as these points represent positions on or controlled by an ambulatory baseline, they will move

as the shore line changes in the future. In fact, there undoubtedly have been some changes since the making of the surveys that are used as the source of the positions here given; but both parties have assumed that such changes probably have not been significant in most places and that those surveys still remain generally the most practical and dependable source of information on the subject. For practical reasons, both state and federal officials have expressed the intention of continuing to recognize those surveys as correct until one party notifies the other to the contrary, such notice to have no retroactive effect. Similarly, for practical reasons, both parties have assumed the shore line to consist of a series of straight lines between identified points, although in fact it commonly departs somewhat (not over 50 feet in either direction) from a true straight line.

Exhibit 6 depicts the whole area described in paragraph 1 of the proposed decree.[4] Because of the large size of the area, a much smaller scale (about 1:457.500) has been used. Exhibits 7 through 15, depicting segments of Exhibit 6 on a larger scale (1:160,000), are based on official offshore leasing plats showing the division of the offshore area into leasing tracts.[5] The scale of these maps is smaller than that of Exhibits 1 through 5, and their representation of the shore line is less accurate in its detail; but these maps are believed to be adequate for

[4] The location of the areas described in paragraph 3 and shown in detail on Exhibits 1 through 4 is also indicated.

[5] In accordance with 43 C.F.R. 3380.2(b), the United States uses the platting pattern already established by Louisiana.

their present purpose of showing parts of the area described in paragraph 1 of the proposed decree that are defined by fixed points and geometric lines in the Gulf of Mexico, independently of the shore line. The part of the area described in paragraph 1 that is defined by reference to the shore line (*i.e.*, south along the Chandeleur Islands to the southwesternmost extremity of Errol Shoal) is shown on the large-scale Exhibit 5 discussed above.

The term "straight line" as used herein and in the proposed decree requires some comment. No line on the surface of a sphere is straight in a true geometric sense, but for various purposes, various kinds of lines on the earth's surface are used as analogous to straight lines. Examples are great circles, which represent the shortest distance between two points on a sphere, and rhumb lines (loxodromic curves), which maintain constant compass bearings and are represented by straight lines on Mercator projection maps. For offshore leasing purposes, both parties use maps based on the Louisiana Plane Coordinate System, South Zone, which treats the earth's surface as a geometric plane, and for practical convenience we suggest that "straight lines" as used herein should be understood to be straight lines on such maps. We believe that for present practical purposes this is the most convenient way of identifying the lines claimed to mark the outer limit of inland waters, in relation to offshore leases. The adoption of this system for this practical operating purpose is not intended to commit either party in principle to the view that a line marking the outer limit of inland waters is always to be

identified as a straight line on a plane coordinate system map rather than in some other possible way. On our Exhibit 6, which is a Mercator projection, lines described as "straight" have been laid down with a slight curvature, to compensate for the discrepancy in projection between this map and the plane coordinate leasing maps used by the parties and in the other exhibits.

As appears from the exhibits just discussed, several existing leases that at present are being administered under the Interim Agreement lie partly in portions of the disputed area now proposed to be awarded to one party or the other, and partly in the area remaining in dispute. Hereafter, the party to whom is awarded part of the land covered by such a lease will be entitled to act as sole lessor of that part and to receive, without any obligation to account for or impound, all future payments due under the lease to the extent that they are derived from or attributable to the part so awarded.[6] The balance of the lease, covering lands still in dispute, of course must remain in its present status until the dispute is resolved. While this may have the unavoidable result of making the lessee answerable to one landlord as to part of the lease and to another landlord as to the remainder, we think it should not otherwise affect the lessee's position at this time. Chiefly, it should not require the lessee to develop each part as a separate lease in

[6] The principles for allocating receipts to different areas are complex but not in dispute.

order to maintain it,[7] while it is still unknown whether the two parts will ultimately prove to be separate leases under the final decree determining title to the part now remaining in dispute. For this reason, we suggest a provision that both parties be required for the present to continue to recognize the two parts as constituting a single lease. By this means, the lessee's position will be kept unchanged, and operations on either part of the lease will suffice to maintain all.[8] The lessee will, of course, remain subject to all its present lease obligations, which always include an obligation to develop the entire lease reasonably. Thus, while development of both parts of the lease will not be required as a condition to maintenance of the lease term, the particular facts may be such

[7] Oil and gas leases typically have a fixed ("primary") term, and continue as long thereafter as oil or gas is produced in paying quantities or approved drilling or reworking operations are conducted. See 43 C.F.R. 3382.1.

[8] In the case of leases now lying partly in Zone 1 and partly in Zone 2, Louisiana has already adopted the policy of recognizing production or operations on the part in Zone 2 as sufficing also to maintain the part in Zone 1. Our proposal simply adopts this approach for both parties, as to the areas affected by the present decree.

Louisiana's willingness to recognize production on the disputed part of a lease as sufficing to maintain the part in Zone 1 has been justified by Louisiana's expectation of eventually establishing its claim to the entire lease and all its proceeds. The United States of course has no corresponding expectation as to the parts now being awarded to Louisiana (or, with minor exceptions, as to any part in Zone 1), which is why the United States has not been willing similarly to recognize production in Zone 1 as maintaining the part of a lease in Zone 2. Our present proposal is intended simply to spare the lessees an interim increase in their obligations, which the final decree may eliminate.

that the lessee will reasonably be required to develop the entire leased area even though it is considered that the area is covered by one lease rather than by two.

While there should be no obligation on either party to impound its future receipts from any area awarded to it by this decree, we think it should be expressly recognized that a party may do so if it chooses. The reason for this is that there may be some wells bottomed so close to the dividing line that an expensive survey would be required to determine on which side they lie. Instead of making such a survey, it may be more convenient to continue to impound the royalties from those wells until it is known where the permanent dividing line is to be drawn. If the final line is in a different place, it never will be necessary to learn the exact relationship of such wells to the line being drawn by this decree.

The amounts impounded from the portions of the disputed area covered by this motion are very large: as of June 30, 1965, they were approximately $170,000,000 from the portion to be awarded to the United States and approximately $33,000,000 from the portions to be awarded to the State of Louisiana. There is no reason to delay further the distribution of these moneys to the parties entitled to them, or to require further impoundment of receipts from locations as to which there is no longer any real controversy.

It might be thought that the parties could accomplish an appropriate release of impounded funds without order of the Court, either under the present terms of the Interim Agreement or by an amendment of it.

However, Louisiana officials doubt their authority to agree to such an arrangement, in view of restrictions imposed on them by Louisiana Act 33 of 1954 and by section 2 of Louisiana Act 311 of 1964, and they deny the authority of the United States to take such action unilaterally under the present provisions of the Interim Agreement. While we believe that the United States has such authority under paragraph 15 of the Interim Agreement, we are reluctant to act unilaterally, in view of Louisiana's position and this Court's order of June 11, 1956. Moreover, such action would not quiet the title to the parts of the disputed area involved. In these circumstances, we submit that the proper and orderly way to conclude the litigation as to these parts of the disputed area is for the Court to enter a supplemental decree fixing the specific applicability, as to these parts, of the general terms of its decree of December 12, 1960. We believe that Louisiana can raise no objection to the decree now sought which has not already been adjudicated in principle; that no oral argument will be necessary; and that the entry of this decree will not impose on the Court the burden of piecemeal consideration of genuinely contested issues. The supplemental decree here requested will not in any way prejudice the rights or claims of either party with respect to any area still actually in controversy.

CONCLUSION

For the foregoing reasons, we ask the Court to enter a supplemental decree in the form proposed, without oral argument.

Respectfully,

THURGOOD MARSHALL,
Solicitor General.

ARCHIBALD COX,
Special Assistant to the Attorney General.

LOUIS F. CLAIBORNE,
Assistant to the Solicitor General.

GEORGE S. SWARTH,
Attorney.

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